

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 UNITED STATES OF AMERICA,
7 Plaintiff,
8 vs.
9 ANTONIO LAMARCUS MASTERS,
10 Defendant.
11

)
) Case No. 2:17-cr-00007-JAD-CWH
)
) **ORDER**
)
)
)
)
12

13 Presently before the court is the government's Motion to Strike Defendant Masters' Notice
14 of Assertion of Right to be Present in Court Unshackled (ECF No. 25), filed on June 13, 2017.
15 Defendant filed a response (ECF No. 26) on June 26, 2017, and the government filed a reply (ECF
16 No. 27) on July 5, 2017.

17 In *United States v. Sanchez-Gomez*, the Ninth Circuit Court of Appeals found that "[b]efore
18 a presumptively innocent defendant may be shackled, the court must make an individualized
19 decision that a compelling government purpose would be served and that shackles are the least
20 restrictive means for maintaining security and order in the courtroom." *United States v.*
21 *Sanchez-Gomez*, 859 F.3d 649, 661 (9th Cir. 2017). The court reasoned that this right "respects our
22 foundational principle that defendants are innocent until proven guilty." *Id.*

23 Defendant relied on *Sanchez-Gomez* in filing his "Notice of Assertion of Right to be Present
24 in Court Unshackled." (Notice (ECF No. 24).) As required by *Sanchez-Gomez*, the court will
25 "decide whether the stated need for security outweighs the infringement on a defendant's right."
26 *Id.* at 666. The court will announce its individualized determination regarding shackling either
27 before or at the commencement of Defendant's next court appearance. Further, the court will deny
28 the government's motion to strike Defendant's notice. Requiring Defendant to file a motion to be
presented in court unshackled would place the burden on a defendant to establish that he should not

1 be shackled and would effectively disregard an individual's constitutional "right to be free from
2 unwarranted restraints." *See id* at 660.

3 IT IS THEREFORE ORDERED that the government's Motion to Strike Defendant
4 Masters' Notice of Assertion of Right to be Present in Court Unshackled (ECF No. 25) is DENIED.

5
6 DATED: December 5, 2017

7
8 
9 _____
10 C.W. Hoffman, Jr.
11 United States Magistrate Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28